

(2) *Where public comment is not warranted.* The official having cognizance of a proposed document within the purview of this paragraph shall, if he or she determines that inviting public comment concerning the document is not warranted under the criteria of § 701.66(b), incorporate that determination, and the basis therefor, in the document when it is issued or submitted to a higher authority for issuance. After issuance, such document shall be published in the FEDERAL REGISTER for the guidance of the public, if required under § 701.64(b).

§ 701.67 Petitions for issuance, revision, or cancellation of regulations affecting the public.

In accordance with the provisions of 32 CFR part 336, the Department of the Navy shall accord any interested person the right to petition in writing, for the issuance, revision, or cancellation of regulatory document that originates, or would originate, for the Department of the Navy, a policy, requirement, or procedure which is, or would be, within the purview of § 701.66. The official having cognizance of the particular regulatory document involved, or having cognizance of the subject matter of a proposed document, shall give full and prompt consideration to any such petition. Such official may, at his or her absolute discretion, grant the petitioner an opportunity to appear, at his or her own expense, for the purpose of supporting the petition, if this is deemed to be compatible with orderly conduct of public business. The petitioner shall be advised in writing of the disposition, and the reasons for the disposition, of any petition within the purview of this section.

Subpart F—DON Privacy Program

SOURCE: 71 FR 27536, May 11, 2006, unless otherwise noted.

§ 701.100 Purpose.

Subparts F and G of this part implement the Privacy Act (5 U.S.C. 552a), and the DOD Directives 5400.11 and 5400.11–R series, DOD Privacy Program (see 32 CFR part 310) and provides DON policies and procedures to ensure that

all DON military members and civilian/contractor employees are made fully aware of their rights and responsibilities under the provisions of the Privacy Act (PA); to balance the Government's need to maintain information with the obligation to protect individuals against unwarranted invasions of their privacy stemming from the DON's collection, maintenance, use, and disclosure of Protected Personal Information (PPI); and to require privacy management practices and procedures be employed to evaluate privacy risks in publicly accessible DON Web sites and unclassified non-national security information systems.

(a) *Scope.* Governs the collection, safeguarding, maintenance, use, access, amendment, and dissemination of PPI kept by DON in PA systems of records.

(b) *Guidance.* Provides guidance on how to respond to individuals who seek access to information in a PA system of records that is retrieved by their name and/or personal identifier.

(c) *Verify identity.* Establishes ways to verify the identity of individuals who request their records before the records are made available to them.

(d) *Online resources.* Directs the public to the Navy's PA Online Web site at <http://www.privacy.navy.mil> that defines the DON's PA Program, lists all Navy, Marine Corps, and Government-wide systems of records and provides guidance on how to gain access to those records.

(e) *Rules of conduct.* Governs the PA rules of conduct for personnel, who will be subject to either civil or criminal penalties for noncompliance with 5 U.S.C. 552a.

(f) *Privacy impact assessment (PIA) requirements.* Establishes requirements for conducting, reviewing, approving, and publishing PIAs.

§ 701.101 Privacy program terms and definitions.

(a) *Access.* Review or copying a record or parts thereof contained in a system of records by any individual.

(b) *Agency.* For the purposes of disclosing records subject to the PA between or among DOD components, DOD is considered a single agency. For all other purposes, DON is considered an agency within the meaning of PA.

(c) *Disclosure*. The transfer of any personal information from a system of records by any means of communication (such as oral, written, electronic, mechanical, or actual review), to any person, private entity, or Government agency, other than the subject of the record, the subject's designated agent or the subject's legal guardian.

(d) *Federal personnel*. Officers and employees of the U.S. Government, members of the uniformed services (including members of the reserve), individuals or survivors thereof, entitled to receive immediate or deferred retirement benefits under any retirement program of the U.S. Government (including survivor benefits).

(e) *Individual*. A living citizen of the U.S. or an alien lawfully admitted to the U.S. for permanent residence. The custodial parent of a minor or the legal guardian of any individual also may act on behalf of an individual. Members of the United States Armed Forces are "individuals." Corporations, partnerships, sole proprietorships, professional groups, businesses, whether incorporated or unincorporated, and other commercial entities are not "individuals."

(f) *Individual access*. Access to information pertaining to the individual by the individual or his/her designated agent or legal guardian.

(g) *Information in identifiable form (IIF)*. Information in an Information Technology (IT) system or online collection that directly identifies an individual (e.g., name, address, social security number or other identifying code, telephone number, e-mail address, etc.) or by an agency intends to identify specific individuals in conjunction with other data elements (i.e., indirect identification that may include a combination of gender, race, birth date, geographic indicator, and other descriptors).

(h) *Information system*. A discrete set of information resources organized for the collection, processing, maintenance, transmission, and dissemination of information.

(i) *Maintain*. Includes maintain, collect, use, or disseminate.

(j) *Member of the public*. Any individual or party acting in a private capacity.

(k) *Minor*. Under this subpart, a minor is an individual under 18 years of age, who is not a member of the U.S. Navy or Marine Corps, or married.

(l) *Official use*. Within the context of this subpart, this term is used when DON officials and employees have a demonstrated need for the use of any record or the information contained therein in the performance of their official duties.

(m) *Personal information*. Information about an individual that identifies, relates, or is unique to, or describes him or her (e.g., Social Security Number (SSN), age, military rank, civilian grade, marital status, race, salary, home/office phone numbers, etc.).

(n) *Privacy Act (PA) request*. A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual. These records must be maintained in a system of records.

(o) *Privacy Impact Assessment (PIA)*. An ongoing assessment to evaluate adequate practices in balancing privacy concerns with the security needs of an organization. The process is designed to guide owners and developers of information systems in assessing privacy through the early stages of development. The process consists of privacy training, gathering data from a project on privacy issues, identifying and resolving the privacy risks, and approval by a designated privacy representative.

(p) *Protected personal information (PPI)*. Any information or characteristics that may be used to distinguish or trace an individual's identity, such as their name, SSN, or biometric records.

(q) *Record*. Any item, collection, or grouping of information, whatever the storage media (e.g., paper, electronic, etc), about an individual that is maintained by a DON activity including, but not limited to, the individual's education, financial transactions, and medical, criminal, or employment history, and that contains the individual's name or other identifying particulars assigned to the individual, such as a finger or voice print or a photograph.

(r) *Review authority*. An official charged with the responsibility to rule

on administrative appeals of initial denials of requests for notification, access, or amendment of records. SECNAV has delegated review authority to the Assistant Secretary of the Navy (Manpower & Reserve Affairs) (ASN(M&RA)), General Counsel of the DON (GC), and the Judge Advocate General of the Navy (JAG). Additionally, the Office of Personnel Management (OPM) is the review authority for civilian official personnel folders or records contained in any other OPM record.

(s) *“Routine use” disclosure.* A disclosure of a record made outside DOD for a purpose that is compatible with the purpose for which the record was collected and maintained by DOD. The “routine use” must have been included in the notice for the system of records published in the FEDERAL REGISTER.

(t) *Statistical record.* A record maintained only for statistical research, or reporting purposes, and not used in whole or in part in making any determination about a specific individual.

(u) *System manager.* An official who has overall responsibility for a system of records. He/she may serve at any level in DON. Systems managers are indicated in the published record systems notices. If more than one official is indicated as a system manager, initial responsibility resides with the manager at the appropriate level (*i.e.*, for local records, at the local activity).

(v) *System of records.* A group of records under the control of a DON activity from which information is retrieved by the individual’s name or by some identifying number, symbol, or other identifying particular assigned to the individual. System notices for all PA systems of records must be published in the FEDERAL REGISTER and are also available for viewing or downloading from the Navy’s Privacy Act Online Web site at <http://www.privacy.navy.mil>.

(w) *Web site.* A collection of information organized into a number of Web documents related to a common subject or set of subjects, including the “home page” and the linked subordinate information.

(x) *Working day.* All days excluding Saturday, Sunday, and legal holidays.

§ 701.102 Online resources.

(a) *Navy PA online Web site* (<http://www.privacy.navy.mil>). This Web site supplements this subpart and subpart G. It provides a detailed understanding of the DON’s PA Program. It contains information on Navy and Marine Corps systems of records notices; Government-wide systems of records notices that can be used by DON personnel; and identifies Navy and Marine Corps exempt systems of records notices. It includes: PA policy documents; sample training materials; DOD “Blanket Routine Uses;” a checklist for conducting staff assistance visits; a copy of PA statute; guidance on how to establish, delete, alter, or amend PA systems of records notices; and provides updates on the DON’s PA Program.

(b) *DON Chief Information Officer (DON CIO) Web site* (<http://www.doncio.navy.mil>). This Web site provides detailed guidance on PIAs.

(c) *DOD’s PA Web site* (<http://www.defenselink.mil/privacy>). This Web site is an excellent resource that contains a listing of all DOD and its components’ PA systems of records notices, DOD PA directive and regulation, OMB Circulars, Defense Privacy Decision Memoranda, etc.

(d) *DON Freedom of Information Act (FOIA) Web site* (<http://www.foia.navy.mil>). This Web site discusses the interface between PA and FOIA and provides detailed guidance on the DON’s FOIA Program.

§ 701.103 Applicability.

(a) *DON activities.* Applies to all DON activities that collect, maintain, or disseminate PPI. Applies to DON activities and to contractors, vendors, and other entities that develop, procure, or use Information Technology (IT) systems under contract to DOD/DON, to collect, maintain, or disseminate IIF from or about members of the public.

(b) *Combatant commands.* Applies to the U.S. Joint Forces Command (USJFCOM) and U.S. Pacific Command (USPACOM), except for U.S. Forces Korea as prescribed by DOD Directive 5100.3.

(c) *U.S. citizens and legally admitted aliens.* Applies to living citizens of the U.S. or aliens lawfully admitted for